

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KADEEM EDWARDS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION,

Defendant.

1:23-cv-01180-NODJ-SKO (PC)

**ORDER GRANTING PLAINTIFF'S
REQUEST TO SUBSTITUTE PARTY**

(Doc. 16)

Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* in a civil rights action pursuant to 42 U.S.C. § 1983.

I. INTRODUCTION

Following screening, on December 4, 2023, the Court issued Findings and Recommendations to Dismiss Claims and Defendants. (Doc. 13.) The Court recommended that this action proceed only on Plaintiff's Eighth Amendment deliberate indifference to serious medical needs claim against Defendant Jane Doe L.V.N., the remaining claims in Plaintiff's complaint to be dismissed, and that the California Department of Corrections and Rehabilitation and John Does 1 through 10 be dismissed from this action. (*Id.* at 2.) Plaintiff was afforded 14 days within which to file any objections. (*Id.*) No objections were filed.

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On January 18, 2024, Chief District Judge Kimberly J. Mueller issued an Order Adopting Findings and Recommendations to Dismiss Certain Claims and Defendants. (Doc. 14.) The California Department of Corrections and Rehabilitation and John Does 1 through 10 were dismissed from the action, the matter was ordered to proceed upon Plaintiff's Eighth Amendment claim of deliberate indifference to serious medical needs against Jane Doe L.V.N. only, and the remaining claims in the complaint were dismissed. (*Id.* at 2.)

On January 22, 2024, the Court issued an order granting Plaintiff ninety days within which to identify Jane Doe L.V.N. and to file a notice of substitution. (Doc. 15.) On February 22, 2024, Plaintiff filed a request to substitute Sukhmani Bassi, L.V.N., for Jane Doe L.V.N. (Doc. 16.)

II. DISCUSSION

Plaintiff seeks to substitute Sukhmani Bassi for Jane Doe L.V.N. (Doc. 16.)

Federal Rule of Civil Procedure 15(c), Relation Back of Amendments, provides:

(1) When an Amendment Relates Back. An amendment to the pleading relates back to the date of the original pleading when:

(C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and if, within the period provided by Rule 4(m) for serving the summons and complaint, the party to be brought in by amendment:

(i) received such notice of the action that it will not be prejudiced in defending on the merits; and

(ii) knew or should have known that the action would have been brought against it, but for mistake concerning the proper party's identity.

Although Plaintiff did not submit a proposed amended complaint identifying the defendant by name as contemplated in Rule 15(c) and Local Rule 220, the January 22, 2024, Order Granting Plaintiff 90 Days to Identify Jane Doe L.V.N. did not require him to do so. (*See* Doc. 15.) A review of the complaint shows Plaintiff identifies Jane Doe, an L.V.N. at Valley State Prison, with sufficient facts concerning her involvement in the alleged deliberate indifference to serious medical needs at issue. (Doc. 1.) The deliberate indifference to serious medical needs is alleged to have occurred between December 2 and December 4, 2023, and

1 concerns Plaintiff's allegations of a refusal to provide medication. (*Id.* at 3.) Thus, the filing of an
2 amended complaint to substitute the name of Jane Doe L.V.N. is unnecessary.

3 Accordingly, the original complaint will remain the operative complaint in this action and
4 the Court will substitute Jane Doe L.V.N. for the named defendant Plaintiff identifies: Sukhmani
5 Bassi, L.V.N. *See, e.g., Cantu v. Doe I*, No. 1:20-cv-00386-HBK, 2021 WL 2822531, at *1-2
6 (E.D. Cal. July 7, 2021); *Altheide v. Williams*, No. 2:17-cv-02821JCM-BNW, 2020 WL 42462 *
7 1 (D. Nevada Jan. 3, 2020) (similarly treating previously filed complaint as the operative
8 complaint but substituting named-defendants for the John Doe Defendants).

9 **III. CONCLUSION AND ORDER**

10 For the reasons stated above, **IT IS HEREBY ORDERED** that:

- 11 1. Plaintiff's request to substitute Jane Doe L.V.N. (Doc. 16) is **GRANTED**;
- 12 2. The Clerk of the Court is **DIRECTED** to substitute **Sukhmani Bassi** for Jane Doe
13 L.V.N. in the caption for this action; and
- 14 3. Limited discovery is now closed. The Court will issue a separate order regarding
15 service of process in due course.

16
17 IT IS SO ORDERED.

18 Dated: **February 23, 2024**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE